



TRANSPORTATION CABINET

Frankfort, Kentucky 40622
www.kentucky.gov

Ernie Fletcher
Governor

Bill Nighbert
Secretary

Crystal Murray Ducker
Deputy Secretary

February 21, 2007

The Honorable Jerry Abramson
Mayor, Louisville Metro
527 West Jefferson Street
Louisville KY 40202

RECEIVED

FEB 23 2007

PLANNING & DESIGN SERVICES

Re: Implementation of Walkable Communities Workshops
PO2-628-0700006078

Dear Mayor Abramson:

Enclosed, please find the above referenced Congestion Mitigation and Air Quality (CMAQ) contract for review, approval and signature. This contract will represent the federal participation match of 80% of items determined eligible for CMAQ funds. The remaining funds or match will need to be provided through the contracting agency. The contracting agency must be the public agency and the project must serve a public purpose.

Please return the original executed agreement to this office at 200 Mero Street, Frankfort, Kentucky 40622, within the next thirty days. Failure to return the original contract will delay processing. The contract will then be forwarded to the Secretary of the Transportation Cabinet for final approval. A fully executed copy of the contract will then be forwarded to you for recordkeeping purposes.

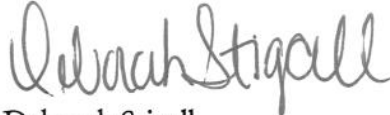
In addition to the matching funds required for the project, there are numerous requirements that must be met to ensure federal reimbursement for this project. This is not a grant. No monies will be advanced to Louisville Metro for this project. All payments will be made on a reimbursement basis after the work is accomplished and adequate proof of payment is submitted and approved. Record keeping must be in accordance with generally accepted accounting practices and government auditing standards. A separate account must be identified in Louisville Metro's audit for each year in which payments are made on the project. These are just a few examples of the requirements for project administration. Other requirements are identified in the Contract Agreement and should be reviewed thoroughly.

No work should be accomplished on the project until we notify you that Federal funds have been authorized and the contract has been fully executed. The project account cannot be set up until all necessary steps are taken.

Abramson, Mayor Jerry
February 21, 2007
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The Office of Special Programs looks forward in working with you to move this project forward. If you have any questions, please contact Amanda D. Ratliff or me at (502) 564-2060.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah Stigall". The signature is fluid and cursive, with the first name "Deborah" written in a larger, more prominent script than the last name "Stigall".

Deborah Stigall
Executive Director
Office of Special Programs

DS/AR

Enclosure

c: Aida Copic, Metro
Mohammad Nouri, Metro

**AGREEMENT BETWEEN
KENTUCKY TRANSPORTATION CABINET
AND
LOUISVILLE-JEFFERSON COUNTY METRO GOVERNMENT
IMPLEMENTATION OF WALKABLE COMMUNITIES WORKSHOPS \$400,000
JEFFERSON COUNTY ** PO2-628-0700006078**

The AGREEMENT is made and entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, hereinafter referred to as the "CABINET" and the Louisville-Jefferson County Metro Government, hereinafter referred to as the "RECIPIENT."

WITNESSETH:

WHEREAS, the United States Congress approved the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), P. L. 102-240, and amended Chapter 1 of Title 23, United States Code by adding Section 149, which established a Congestion Mitigation and Air Quality Improvement Program (CMAQ); and

WHEREAS, Transportation Equity Act for the 21st Century (TEA-21) in P. L. 105-178, reauthorized the ISTEA and thereafter the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in P. L. 109-59, reaffirmed the ISTEA and TEA-21 and added §149(b), which provides for allocation of CMAQ funds to be made available for a transportation project or program in an area that has been designated as a non-attainment or maintenance area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); and

WHEREAS, Jefferson County, Kentucky has been designated as a non-attainment or maintenance area as part of the Louisville-Southern Indiana Metropolitan Planning Organization and the Project is part of the approved Transportation Improvement Program for the Louisville area;

WHEREAS, 23 U.S.C §120 provides that any project funded under 23 U.S.C. §149 requires a matching contribution of at least twenty percent (20%) from another source; and

WHEREAS, the Federal Highway Administration (FHWA), through the CABINET, has approved an Application for CMAQ funds for the Implementation of Walkable Communities Workshops that will contribute to the attainment of a national ambient air quality standard; and

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NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the CABINET and the RECIPIENT hereby agree as follows:

Section 1. Scope of Work & Budget Summary. It is understood that the Implementation of Walkable Communities Workshops will improve air quality as further described in the Scope of Work and Budget Summary (Attachment A), which is attached to and made a part of this AGREEMENT. The RECIPIENT shall undertake and complete the work as described in Attachment A in accordance with the terms and conditions of this AGREEMENT and any applicable regulations or directive issued by the CABINET or the Federal Highway Administration (FHWA).

The RECIPIENT shall have a maximum of two (2) budget revisions subject to the approval of the CABINET for the duration of the AGREEMENT. In no event shall the RECIPIENT be allowed additional budget revisions.

Section 2. Duration of Agreement. It is understood that the effective date of this AGREEMENT is the date signed by the Secretary of the Transportation Cabinet. This AGREEMENT shall terminate three (3) years from the date of said execution.

This AGREEMENT is contingent upon the continued availability of appropriated federal funds. If for any reason the funds become unavailable for any of the following reasons, the Kentucky General Assembly's failure to appropriate funds, operation of law, a reduction of federal funds or for any other reason, this AGREEMENT will be cancelled by the CABINET without penalty, either in whole or in part. Cancellation for any of these reasons is not a default by the CABINET nor does it give rise to a claim against the CABINET.

Section 3. Duration of Project. It is understood and agreed upon by the parties that the Scope of Work shall be completed within the period set forth under Section 2. In the event the Recipient fails to perform the Scope of Work within the three-year period, the CABINET reserves the right to cancel the

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AGREEMENT. In the event the CABINET cancels the AGREEMENT under this section, the RECIPIENT shall reimburse the CABINET for all federal funds expended under the AGREEMENT.

Section 4. Project Funding. It is expressly understood that federal funds for this project are being provided by the Federal Highways Administration (FHWA) through the CABINET. The total cost of this project is \$500,000. The federal share of the total cost of this AGREEMENT shall not exceed \$400,000 (the amount indicated on Attachment A) unless otherwise approved in writing by the CABINET with the concurrence of FHWA. The RECIPIENT agrees to secure the matching funds in the amount sufficient, together with the authorized federal funds, to assure funding for completion of the project.

Unexpended funds at the end of this contract period shall not be carried forward to a new AGREEMENT.

Section 5. Allowable Costs. The Project costs referred to in this AGREEMENT shall be those costs shown on Attachment A. The RECIPIENT shall follow OMB Circular A-87 "Cost Principles for State, Local and Indian Tribal Governments" or OMB Circular A-122 "Cost Principles for Non-Profit Organizations." The CABINET shall reimburse the RECIPIENT upon request in accordance with the Attachment, subject to the provisions of Section 22 hereof.

Section 6. Reporting and Monitoring. The RECIPIENT shall maintain and comply with all reporting requirements outlined by the CABINET and FHWA. The RECIPIENT shall submit annual progress reports detailing the status of the project. The recording and reporting of any purchases shall be in accordance with the requirements of the Kentucky Revised Statutes. CABINET concurrence must be obtained by the RECIPIENT prior to the awarding of any AGREEMENT for work or materials to be used on this Project.

All charges to the Project shall be supported by properly executed invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charge. The CABINET or FHWA may require additional documentation at their discretion.

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All checks, invoices, contracts, vouchers, orders or purchasing documents pertaining in whole or in part to the Project shall be clearly identified and readily accessible. The RECIPIENT shall permit the CABINET and or FHWA to conduct periodic site visits to ascertain compliance with federal and state regulations. The RECIPIENT shall maintain financial documents for three years after project completion and final payment in accordance with 49 CFR Part 18.

Section 7. Davis-Bacon and Related Acts. The RECIPIENT shall comply with the Davis-Bacon and Related Acts for contracts in excess of \$2,000 for the construction, alteration, and/or repair of public buildings or public works, including painting and decorating. These Acts require all contractors and subcontractors to pay the various classes of laborers and mechanics employed on the contract the wage rates and fringe benefits determined by the Secretary of Labor to be prevailing for corresponding classes of employees engaged on similar projects in the locality. In addition, the Act requires that certain labor standards provisions be specified in the contract awarded to the successful bidder. An applicable wage determination must also be included in the contract documents. The RECIPIENT shall refer to the Davis-Bacon and Related Acts for the requirements under this provision.

Section 8. The Contract Work Hours and Safety Standards Act. During the construction of the Project, the RECIPIENT shall comply with the Contract Work Hours and Safety Standards Act which contains weekly (after 40 hours) overtime pay requirements and applies to most Federal Contracts which may require or involve the employment of laborers and mechanics, including watchmen and guards. Section 107 of the Act provides health and safety standards on covered construction work which are administered by the Occupational Safety and Health Administration (OSHA). The RECIPIENT shall refer to the Contract Work Hours and Safety Standards Act for the requirements under this provision.

Section 9. The Copeland "Anti-Kickback" Act. The RECIPIENT shall comply with the "Anti-Kickback" section of the Copeland Act, which makes it punishable to induce any person working on a federally funded or assisted construction project to "give up any part of the compensation to which he is

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entitled under his contract of employment." The RECIPIENT shall refer to the Copeland Act for the requirements under this provision.

Section 10. Title VI - Civil Rights Act of 1964. The RECIPIENT shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964 (78 Stat. 252), the Regulations of DOT issued thereunder (CFR Title 49, Subtitle A, Part 21), and the assurance by the RECIPIENT pursuant thereto.

Section 11. Equal Employment Opportunity. In connection with the execution of this AGREEMENT, the RECIPIENT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, or disability: The RECIPIENT shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin, age, or disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay, or other forms of compensation; and selection of training, including apprenticeship. The RECIPIENT shall incorporate the foregoing requirements of this paragraph in all subcontracts for services covered by this AGREEMENT.

Section 12. Disadvantaged Business Enterprise (DBE) Requirements. The RECIPIENT agrees to comply with the DBE Requirements contained within 49 CFR Part 26.

Assurance. The contractor, sub-recipient or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U. S. Department of Transportation-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the CABINET deems appropriate. Each contract signed with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include this provision.

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DBE Prompt Payment Requirement. The RECIPIENT must abide by 49 CFR Part 26.29 with regard to prompt payment mechanisms and retainage payment. If applicable, all contractors must be paid within ten (10) working days after the RECIPIENT has been paid by the CABINET for work performed or services delivered. No recipient or contractor may withhold retainage on any subcontract on this project.

Section 13. Prohibited Interest. No member, officer, or employee of the CABINET or the RECIPIENT during his tenure or for one year thereafter shall have any financial interest, direct or indirect, in this AGREEMENT or the proceeds thereof as identified in KRS 45A.340. The CABINET and the RECIPIENT shall comply with the requirements of the Executive Branch Code of Ethics KRS Chapter 11A.

Section 14. Covenant Against Contingent Fees. The RECIPIENT warrants that no person, selling agency or other organization has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the CABINET shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the compensation, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Section 15. Interest of Members of or Delegates to Congress. No funds have been or will be aid to a member or delegate to the Congress of the United States in connection with the awarding of this Federal contract. Nor shall any member of or delegate to the Congress of the United State receive any benefit arising out of this federal contract.

Section 16. Americans with Disabilities Act. The RECIPIENT agrees to comply with the provisions of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and other applicable Federal regulations relating hereto, issued by the U.S. Department of Transportation, prohibiting discrimination against otherwise qualified individuals under any

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program or activity receiving federal financial assistance covered by this AGREEMENT and by providing access to all facilities.

Section 17. Applicable Laws. This AGREEMENT shall be in accordance with the laws of the United States Department of Transportation, Federal Highway Administration and the Commonwealth of Kentucky.

Section 18. Hold Harmless Clause. The RECIPIENT shall indemnify and hold harmless the FHWA and the CABINET and all of its officers, agents, and employees from all suits, actions, or claims of any character because of any injuries or damages received by any person, persons, or property resulting from implementation of any phase of the Project or occurring on or near the project site.

Section 19. Audit and Inspection. The Recipient shall permit the CABINET, the Comptroller General of the United States and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect and approve all phases of the Project and all relevant Project data and records; and the RECIPIENT shall also permit representatives of these agencies to review any audit(s) performed by the RECIPIENT or any other entity and to audit the books and accounts of the RECIPIENT pertaining to the Project.

The RECIPIENT hereby acknowledges its duty to the CABINET to determine whether it is subject to the Single Audit Act of 1984, OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations." If RECIPIENT is subject to this Act, RECIPIENT shall provide the Cabinet with copies of any audits or reviews prepared as a result of that Act. RECIPIENT hereby acknowledges it is responsible to inform any entity it intends to hire or use as a contractor, as defined in KRS 45A.030(7), that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any of the contractor's books, documents, papers, records, or other evidence, which are directly pertinent to this

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AGREEMENT for the purpose of financial audit or program review. Furthermore, any of the contractor's books, documents, papers, records or other evidence provided to the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the AGREEMENT shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)© prior to the execution of the AGREEMENT. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information, which would otherwise be subject to public release if a state government agency were providing the service.

Section 20. Campaign Finance. The contractor swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the entity which he/she represents has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

Section 21. Violations. Pursuant to KRS 45A.485, the contractor shall reveal to the CABINET any final determination of a violation within the previous five (5) year period pursuant to KRS Chapter 139, 136, 141, 337, 338, 341 and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health law, unemployment compensation law, and workers compensation insurance law, respectively.

The Contractor agrees to be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 for the duration of this AGREEMENT. Failure to reveal a final determination of a violation of the reference statutes or to comply with these statutes for the duration of this AGREEMENT shall be grounds for the cancellation of the agreement and disqualification of the contractor from eligibility for future state contracts for a period of two (2) years.

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Section 22. Personal Service Contracts and Memoranda of Agreement. If this AGREEMENT comes under the purview of KRS 45A.690 - 45A.725, payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after disapproval of the Government Contract Review Committee unless the decision of the committee is overridden by the Secretary of Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority.

Section 23. Disputes. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the RECIPIENT and the CABINET shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final.

Section 24. Agreement Change. Any proposed change in this AGREEMENT shall be at the mutual consent of the RECIPIENT and the CABINET and be evidenced in writing.

Section 25. Termination. The CABINET may cancel this AGREEMENT at any time deemed to be in the best interest of the CABINET by giving 30 days written notice of such cancellation to the RECIPIENT. If the AGREEMENT is canceled under this provision by reason of the Cabinet, the CABINET shall reimburse the RECIPIENT according to the terms hereof for all expenses incurred under this AGREEMENT to the date of such cancellation. The RECIPIENT reserves the right to cancel this AGREEMENT at any time deemed to be in their best interest by giving 30 days written notice of such cancellation to the CABINET. If the AGREEMENT is canceled under this provision by reason of the RECIPIENT, the RECIPIENT shall reimburse the CABINET for all federal funds expended under this AGREEMENT according to the terms hereof to the date of such cancellation.

IN WITNESS WHEREOF, we have hereunto set our hands.

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LOUISVILLE-JEFFERSON COUNTY
METRO GOVERNMENT

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

MAYOR

BILL NIGHBERT, SECRETARY

DATE: _____

DATE: _____

EXAMINED:

EXAMINED:

ATTORNEY

OFFICE OF LEGAL SERVICES

DATE: _____

DATE: _____

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ATTACHMENT A

SCOPE OF WORK AND BUDGET

Louisville Jefferson County Metro Government co-sponsored four Walkable Community Workshops in the Louisville area in 2004. The Walkable Community Workshops sites were chosen in targeted areas (both urban and suburban) that included residential, commercial, schools, churches, hospitals, and employment centers. Each workshop produced a set of recommendations that will enhance and improve walking and bicycling conditions in the targeted areas. These funds will be used to implement the recommendations of the Jefferson County workshops. The specific locations are as follows:

1. Brownsboro Road - Sidewalk construction on the north side of Brownsboro Road between Idlewyde and Mount Holly Road approximately 750 feet in length.
2. Dupont Area - Sidewalk/pedestrian improvements (design and engineering) at the intersection of Breckenridge Lane and Dupont Pkwy (all legs of the intersections), and on Dutchman's Lane north of Breckenridge as recommended by the Dupont Transportation Study.
3. Newburg/Trevillian Avenue Area - Pedestrian improvements at the Newburg/Trevillian Avenue intersection.
4. Fern Creek Area - Pedestrian improvements (design and construction) to connect Fern Creek Traditional High School, Fern Creek Elementary and Fern Creek Park. Estimated length 3000 feet.

Budget/Funding

Each of the four projects will have the following budget breakdown:

Project Phase	Federal CMAQ Funds	Local Funds (20% Match)	Total
Engage consultant and develop design/construction plans	\$ 10,000	\$ 2,500	\$ 12,500
Utilities relocation	\$ 10,000	\$ 2,500	\$ 12,500
Construction	\$ 80,000	\$20,000	\$100,000
Total	\$100,000	\$25,000	\$125,000

The total project budget is as follows:

Project Phase	Federal CMAQ Funds	Local Funds (20% Match)	Total
TOTAL PROJCT	\$400,000	\$100,000	\$500,000

All design plans must be submitted to KYTC prior to construction or purchasing for review. A detailed budget for engineering improvements must also be submitted for each of the four projects. The plans and budget for capitol improvements must be approved by KYTC prior to funds being allocated.

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Attach Resolution Here
(A sample has been provided.)

Sample Resolution

Whereas, the SAFETEA-LU Federal Reimbursement Agreement is in the amount of \$ _____ for the

_____, and,
Name of Project

Whereas, the City of _____ does hereby authorize Mayor _____ to sign the above mentioned Agreement, as well as any other necessary documents relating to the project.

or

Whereas, _____ County Fiscal Court does hereby authorize County Judge Executive _____ to sign the above mentioned Agreement, as well as any other necessary documents relating to the project.

The vote taken on said Resolution, the result being as follows:

Motion Carried - Yes No
Please circle one

Signature _____ **Date** _____

Title _____

Witness _____

WE MUST HAVE A RESOLUTION FROM THE CITY/COUNTY APPROVING THIS AGREEMENT AND INDICATING THE MAYOR'S/JUDGE'S/SUPERINTENDENT'S AUTHORITY TO ENTER INTO THIS AGREEMENT FOR AND BY THE CITY/COUNTY/SCHOOL BOARD. THE RESOLUTION SHOULD BE ADOPTED, SIGNED, AND SUBMITTED AS AN ATTACHMENT TO THIS AGREEMENT. WE WILL NOT ESTABLISH AN ACCOUNT WITHOUT THE RESOLUTION.